



## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petition for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments identified by Docket No. MSHA-2022-051 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-051.
2. *Fax:* 202-693-9441.
3. *Email:* [petitioncomments@dol.gov](mailto:petitioncomments@dol.gov)
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, *Attention:* S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), [Petitionsformodification@dol.gov](mailto:Petitionsformodification@dol.gov) (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

## **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

## **II. Petition for Modification**

Docket Number: M-2022-020-C.

Petitioner: UC Mining, LLC, 835 State Route 1179, Waverly, Kentucky, 42462.

Mine: UC Mining, LLC Mine, MSHA ID No. 15-02709, located in Union County, Kentucky.

Regulation Affected: 30 CFR 77.1914 (a), Electrical equipment.

Modification Request: The petitioner requests a modification of 30 CFR 77.1914 (a) to permit using a non-permissible brake car on the slope hoist to transport men and materials in and out of the slope, inby the collar during the excavation of the 11 seam turnout in the mine slope.

The petitioner states that:

(a) Miners will be better protected from hoist overspeed and rope breakage by using a brake car for transportation in and out of the slope.

(b) Miners will also be better protected by riding in a covered car versus an open car.

The petitioner proposes the following alternative method:

(a) The battery-powered Frontier Kemper/Lake Shore Sanford-Day Brakeman Car, serial number BC-163-19, model number BSD-2-42 will be operated in intake air at all times.

(b) The intake air in the slope will remain below 1 percent methane at all times.

(c) If the methane level approaches or reaches 1 percent, all power including the battery-powered Brakeman Car shall be removed and corrections to the ventilation system shall be made.

(d) Tests for methane shall be conducted within the slope as required by the standard.

(e) The Brakeman car shall be equipped with onboard communication and an emergency stop feature.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Song-ae Aromie Noe,**

*Director,*

*Office of Standards, Regulations, and Variances.*

[FR Doc. 2022-21096 Filed: 9/28/2022 8:45 am; Publication Date: 9/29/2022]